

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CARY BRINKLEY,

Plaintiff(s),

v.

MARK BARNHART,

Defendant(s).

CASE NO. C22-0219-KKE

ORDER DENYING PLAINTIFF'S  
MOTION TO CONTINUE

In October 2023, the Court set this matter for a five-day jury trial to begin on September 30, 2024. Dkt. No. 37. In August 2024, the Court's courtroom deputy contacted counsel for Plaintiff and Defendant to inquire about trial readiness, as the trial date was fast approaching and no dispositive motion had been filed. *See* Dkt. No. 39. The parties expressed an interest in mediation, and did not agree as to whether they were prepared to begin trial as scheduled. *Id.* The Court instructed the parties to file a joint status report by August 12, 2024, detailing their positions on case scheduling. *Id.*

Instead of filing a joint status report, the parties filed separate status reports. Dkt. Nos. 40, 41. Both reports indicated an interest in pursuing private mediation. *Id.* The Court issued a minute order on August 14, 2024, indicating that if the parties' efforts to privately mediate were

1 unsuccessful, either party could file a motion requesting a judicial settlement conference. Dkt. No.  
2 42.

3 On August 16, 2024, Plaintiff filed a motion to continue the trial date, indicating that the  
4 parties required a continuance in order to mediate, but also that an extension of the deadline to  
5 complete discovery (which was May 3, 2024) may be needed to allow the parties to conduct expert  
6 discovery. Dkt. No. 43. Defendant opposes the motion on the grounds that a continuance is not  
7 needed in order to mediate, and that Plaintiff was not diligent in requesting an extension of the  
8 discovery deadline. Dkt. No. 46.

9 The Court agrees with Defendant that Plaintiff has not shown good cause to extend either  
10 the trial date or the discovery deadline. *See* Fed. R. Civ. P. 16(b)(4) (explaining that a scheduling  
11 order may be modified only with the court's leave, for good cause); *Johnson v. Mammoth*  
12 *Recreations, Inc.*, 975 F.2d 604, 609 (1992) (explaining that "good cause" to modify a case  
13 schedule exists where the case schedule cannot be followed despite diligence on the part of the  
14 party requesting modification). Although Plaintiff has explained why it was logistically  
15 challenging to schedule depositions in this matter, those depositions were completed in April 2024  
16 in compliance with the case schedule. *See* Dkt. No. 43 at 2. Plaintiff's briefing does not  
17 demonstrate that Plaintiff has been diligent in preparing for trial since then, and that despite this  
18 diligence, the current case schedule cannot hold. Although Plaintiff emphasizes that the parties  
19 may expend unnecessary resources preparing for trial in a matter that may be settled via mediation  
20 (Dkt. No. 51 at 3), the case schedule in this matter has been set since October 2023 and the parties  
21 have had ample opportunity to mediate. Under these circumstances, the Court does not find good  
22 cause to continue the case schedule nor to renew expired deadlines.

23 The parties remain free to mediate in an attempt to resolve this case, and it appears that  
24 mediation scheduling conversations are ongoing. *See* Dkt. No. 51 at 2–3. But absent a showing

1 of Plaintiff's diligence, the Court DENIES Plaintiff's motion to continue the trial date and/or reset  
2 the discovery deadline.

3 Dated this 3rd day of September, 2024.

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6 Kymberly K. Evanson  
7 United States District Judge  
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